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Summary record of the 12th meeting

Held at the Palais Wilson, Geneva, on Monday, 29 May 2017, at 3 p.m.

Chair: Ms. Bras Gomes

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The meeting was called to order at 3.10 p.m.

Substantive issues arising from the implementation of the International Covenant on Economic, Social and Cultural Rights

Submissions by national human rights institutions and non-governmental organizations

Australia

1. **Mr. Edgerton** (Australian Human Rights Commission) said that the Government of Australia was to be commended for establishing a system of parliamentary scrutiny of human rights and a national insurance scheme for persons with disabilities and for introducing protections against discrimination on the basis of sexual orientation, gender identity and intersex status and measures to protect children's rights. However, the Covenant had not been fully incorporated into domestic law and some rights were therefore not directly justiciable in Australia. While Australia had ratified optional protocols and made declarations under other core human rights instruments, thus recognizing the right of its citizens to make use of individual complaints mechanisms, it had not ratified the Optional Protocol to the Covenant.

2. Women in Australia continued to have lower workforce participation, earnings, retirement incomes and savings than men. Older persons and persons with disabilities also suffered employment discrimination. The Australian Human Rights Commission had issued a set of recommendations calling for higher labour force participation by such groups and improvement of community awareness of stereotypes and discriminatory practices.

3. Over 100,000 people were homeless and more than 200,000 households were on waiting lists for social housing. Clearly, more needed to be done to increase the stock of social and affordable housing. Aboriginal and Torres Strait Islander Australians were the group most vulnerable to violations of the rights to health and an adequate standard of living. The Government had undertaken to close the gap between indigenous and non-indigenous citizens, but six of the seven targets it had established in 2008 were not on track to be met. Life expectancy for indigenous people was 10 years shorter than that of other citizens and the child mortality rate was still about twice as high. Indigenous children were 10 times more likely than non-indigenous children to be in out-of-home care, and the situation was worsening. The Government should work with indigenous communities to address those problems and should ensure that measures to assist them were undertaken with their free, prior and informed consent. The Commission had recommended continuation of funding for the National Congress of Australia's First Peoples, which in 2016 had produced a blueprint for government action in the areas of health, justice, violence prevention, early childhood services and observance of the rights of indigenous people with disabilities.

4. The Government maintained a policy of mandatory detention for all migrants who arrived by boat without a visa. Beginning in 2011, it had increased the use of community arrangements for asylum seekers, which had been a welcome development. The number of people in immigration detention had peaked in 2013 at about 10,000, including some 2,000 children. In 2014 the Commission had begun an inquiry into the impact of such detention on children, and it had subsequently submitted a report to the Government, which had released all children from immigration detention by April 2016. However, there had still been some 1,300 people in immigration detention in March 2017, some of whom had been held in administrative detention for as long as seven years. Such prolonged detention had a dire impact on the detainees' physical and mental health. The Commission was concerned about fast-track assessment processes that had removed substantive procedural rights for asylum seekers. The withdrawal of funding for free legal assistance for asylum seekers and the imposition of visa and social security limitations were also concerns.

5. **Mr. Windfuhr**, noting the gender wage gap and the high percentage of people with disabilities excluded from the labour market, said that he would be interested in hearing the Commission's views on the Government's labour market policies.

6. **Mr. Uprimny** asked whether Aboriginal and Torres Strait Islander people enjoyed any specific recognition under the Constitution. Noting that there were reportedly disparities in funding for private and public schools, he asked whether public funds were increasingly being spent on private establishments and whether there was thus a risk of the establishment of a segregated education system.

7. **Mr. Abdel-Moneim**, noting that Australia was a relatively wealthy country, asked whether expenditure on economic, social and cultural rights was in line with the country's resources. He wondered to what extent income inequality impinged on the enjoyment of economic, social and cultural rights. He would also like to know whether, in the view of the national human rights institution, the taxation system was just or unjust. The same questions could be raised in respect of the Netherlands.

8. **The Chair** said that the fact that economic, social and cultural rights were not given the same importance or status as other rights was a recurring problem. The question was how to address it. Amendment of a country's constitution was generally not something that could be done easily, so the Committee often attempted to buttress respect for the rights covered by the Covenant by focusing on the framework for non-discrimination and equality. She wondered whether such an approach was feasible in Australia. The same question could be raised in respect of the Netherlands.

9. The Australian Government had quite candidly reported to the Committee that many of its targets were not on track to be met, but it had offered little explanation of the reasons. What was the Commission's assessment? Were the targets unrealistic or was the problem lack of funding or political will?

10. **Mr. Edgerton** (Australian Human Rights Commission) said that the Workplace Gender Equality Agency collected data on participation, employment and unemployment rates and wage disparities in Australia. The agency should be given a broader remit so that it would be able to document disparities related to disability and age. In 2016 the Commission had produced a report on the employment situation of older persons and persons with disabilities, which had called for the Government to adopt national strategies to lift participation rates and to carry out national community education campaigns to reduce stigma and discrimination in hiring and emphasize merit-based employment. The Government should leverage its position as a purchaser of goods and services to encourage the fulfilment of voluntary targets for the employment of older persons and people with disabilities. It would also be useful to promote skills training and to establish insurance and workers' compensation schemes for older workers.

11. A process had been under way for years to explore the possibility of amending the Constitution to include specific recognition of Aboriginal and Torres Strait Islander people, and a series of round-table discussions led by indigenous peoples had recently concluded. Consideration was also being given to including a prohibition against racial discrimination in the Constitution and removing outdated and racially biased language and to establishing an indigenous representative body that would report to the national parliament. The Government had recently received the report produced by the round-table discussions and was preparing a formal response.

12. Government funding was provided to both public and private schools. The 2012 Gonski Review Report, a major report on the education system, had suggested that the financing model for schools should change so as to ensure that funding would be based on students' needs. Allocations for students with disabilities or special needs, for example, would thus be higher. Both major parties currently supported that approach, and discussions on how to implement it were under way.

13. It was difficult for him to say whether the Government was spending enough on economic, social and cultural rights. In his view, it was not for the Commission to decide what level of funding would be adequate. The Commission considered that the taxation system, which was progressive, was appropriate. Income inequality was clearly a factor impeding the enjoyment of economic, social and cultural rights; among Aboriginal people, for example, high rates of poverty had led to the removal of children from their homes and to mental and physical health problems. The Government had recently drawn up a plan for implementing the Aboriginal and Torres Strait Islander Health Plan, with specific targets

for 2018 and 2023. The Commission encouraged the Committee to ask the Government for specific information on funding for the implementation plan.

14. **Ms. Bevan** (People with Disability Australia), speaking on behalf of the Australian NGO Coalition, said that the Australian asylum regime discriminated against asylum seekers who arrived by sea, subjecting them to mandatory detention, depriving them of the right to work and limiting access to education and health services for long periods, which produced severe impacts on their mental and physical health. Offshore detention of migrants must stop immediately, and those in detention on Manus Island and in Nauru should be provided with the protection to which they were entitled in accordance with the international obligations of Australia.

15. Indigenous Australians faced significant discrimination, and their right to self-determination remained unfulfilled. Funding for the indigenous affairs portfolio and for their representative body, the National Congress of Australia's First Peoples, had been slashed. There was little evidence of a commitment on the part of the Government to genuine, community-led consultation with the indigenous community on those issues.

16. On the other hand, the Government had carried out significant reforms in the area of support for people with disabilities. The National Disability Insurance Scheme, introduced in 2013, provided individualized funding tailored to the needs of beneficiaries. Unfortunately, the attention paid to that programme had steered focus and funding away from other initiatives, such as the National Disability Strategy. Notwithstanding improvements in gender policies and the implementation of various violence-reduction initiatives, domestic violence remained prevalent. Funding for legal aid and assistance for victims of family violence had been reduced. Gender inequality remained a problem, with significant income gaps between women and men. Women over 50 years of age were the fastest growing cohort among homeless people.

17. Since the publication of the Gonski Review Report, the Government had improved the distribution of resources for education, but spending on education as a percentage of gross domestic product (GDP) remained below the average among the countries of the Organization for Economic Cooperation and Development. While the Government had adopted legislation against discrimination on the basis of sexual orientation, gender identity and intersex status, certain forms of discrimination remained lawful owing to religious and other exemptions, and marriage equality remained unrealized. Lastly, with regard to labour rights, migrant workers on temporary visas were frequently exploited owing to inadequate safeguards, and the right to strike was being eroded, particularly in the construction and allied industries.

18. **Mr. Price** (People with Disability Australia) said that the roll-out of the National Disability Insurance Scheme had been one of the most significant social reforms undertaken by Australia in generations. There was still work to be done, however, in particular to ensure the right to work of persons with disabilities and to address the serious problem of violence against such persons. To that end, the Government should provide adequate resourcing for the National Disability Strategy, broaden the strategy's vision and strengthen accountability mechanisms.

19. Some 90 per cent of women with intellectual disabilities had been sexually assaulted, often before the age of 18. While the Quality and Safeguarding Framework for the National Disability Insurance Scheme would improve protection and redress mechanisms, the insurance scheme covered only about 10 per cent of the population with disabilities. A cross-party parliamentary inquiry had called for the establishment of a royal commission to uncover the full extent of the problem of violence against persons with disabilities and ensure accountability and justice, but the Government had initially rejected that recommendation.

20. At least half the prison population had some form of disability. Domestic legislation allowed persons with cognitive or psychosocial disabilities to be deemed unfit to stand trial, yet it also allowed them to be committed to prisons or psychiatric facilities without being convicted, sometimes for terms exceeding the custodial sentences allowable for the offences in question. Compulsory treatment and treatment without consent, including forced sterilization, were recognized as forms of ill-treatment or torture, yet they were

allowable in all the country's states and territories. He urged the Committee to call on the Government to prohibit the forced sterilization of people with disabilities and those with intersex variation and to consider including in its concluding observations a reference to the Darlington Statement on the issue, recently released by a group of organizations of intersex people from Australia and New Zealand.

21. **Ms. McKernan** (Australian Child Rights Taskforce) said that Australia had no federal ministry with responsibility for children and no federal human rights act or national plan on children's rights. While the National Framework for Protecting Australia's Children provided a commendable policy framework, it should be adequately resourced and its scope should extend beyond protection against neglect or abuse to the full range of children's rights. The practices employed in youth detention and out-of-home care often impinged on those rights. Indigenous children were nearly 10 times more likely than non-indigenous children to be in out-of-home care, and civil society organizations had specifically called upon the Council of Australian Governments to take action to remedy that situation. Youth justice detention systems failed to protect the rights of children and to act in their best interests, depriving them of access to education, medical and mental health services and subjecting them to cruel, inhuman and degrading treatment.

22. While the 2017/18 budget reflected a positive commitment to needs-based funding and enhanced transparency in the education system, increased funding and support for quality, community-controlled early childhood care and education were needed. Children and young people in the workforce continued to face discrimination owing to an exemption in the Age Discrimination Act 2004 that allowed people under the age of 21 to be paid a fraction of the minimum wage. The Australian Human Rights Commission had long ago called for a review of the situation with regard to youth employment, but the Government had not carried out a review.

23. **Mr. Di Nicola** (Human Rights Council of Australia) said that persistent, extreme poverty among indigenous groups, a relatively high rate of poverty among the general population and growing economic inequalities hindered the realization of economic, social and cultural rights for all Australians. He encouraged the Committee to raise that issue with the delegation. The detention of asylum seekers had clearly had serious negative impacts on their physical and mental health, as documented by reports of the Australian Human Rights Commission and, more recently, the Special Rapporteur on the human rights of migrants. Under the Covenant, migrants had the right to the highest attainable standard of physical and mental health and the right to work. The Committee should recommend that the Government take urgent action to uphold those rights.

24. Migrant workers, who represented about 10 per cent of the workforce, were often employed in precarious circumstances and ran the risk of being exploited by their employers. Australia had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was an important tool for the implementation of economic, social and cultural rights for that group. He urged the Committee to recommend that Australia ratify the Convention.

25. **Ms. McKernan** (Global Initiative for Economic, Social and Cultural Rights), citing a case of forced evictions in Cambodia resulting from sugar plantation operations financed by an Australian bank, said that the Government of Australia should take measures to ensure that Australian businesses did not contribute to the violation of rights enshrined in the Covenant. In the case mentioned, victims who had spoken out had faced intimidation and arrest and been denied access to justice. To prevent such abuses, the Government needed to take steps to ensure mandatory human rights due diligence and access to effective remedies for victims.

26. Climate change threatened a number of Covenant rights, and the Government should revise its policies so that they more accurately reflected the serious risks posed by that phenomenon. In addition, it should take measures to reverse recent increases in greenhouse gas emissions.

27. **Ms. Mahon** (Global Human Rights Group) said that there had been violations of Covenant articles 6, 7, 10, 11 and 12 at onshore and offshore immigration detention centres, including torture and denial of access to medical care and adequate food and water. Those

violations had been particularly egregious at the centres in Nauru and on Manus Island. The Government was not only failing to protect the rights of asylum seekers, it was deliberately imposing harsh detainment conditions in order to deter them from arriving in Australia by boat. In addition, human rights defenders who shared information with bodies such as the Committee could be held criminally liable under the Commonwealth Crimes Act; as a result, human rights defenders who were also asylum seekers were being silenced. Her organization encouraged the Committee to call on the Government to decriminalize the sharing of information with United Nations bodies and implement laws to protect the rights of human rights defenders. The Government should also review its policy of deterrence vis-à-vis asylum seekers and ensure that their detention and living conditions were in conformity with the Covenant and international human rights law. In addition, the Government should be urged to ratify the Optional Protocol to the Covenant.

28. **Ms. Liebenberg** said that it would be helpful to learn more about recent legislation reducing social security benefits for sole parents and the reasoning behind it.

29. **Mr. Uprimny** said that it would be interesting to hear details on the specific criticisms levelled against the compulsory income management scheme.

30. **Mr. Windfuhr** said that he would welcome information on the functioning of schemes for the financial management of non-compliance and how they affected the right to social security. In addition, it would be useful to know what aspects of the recent Building and Construction Industry Act and other Government measures made it difficult for workers to organize. He would also like to hear more about the problem of violence against women with disabilities in settings other than care facilities, such as the labour market and educational institutions. Lastly, it would be interesting to hear about the current debate on business and human rights in Australia, particularly with regard to supply-chain issues.

31. **The Chair** said that, since Australia had no official poverty line, it would be helpful to know what criteria were used to calculate absolute and relative poverty levels.

32. **Ms. Bevan** (People with Disability Australia) said that a Senate inquiry had been conducted into violence against persons with disabilities in institutional settings. It had found evidence of restrictive practices not only in facilities for disability services, but also in schools and domestic environments, for example. Although the inquiry had recommended the establishment of a royal commission to look into violence against persons with disabilities, the Government had rejected that possibility because it had deemed that the National Disability Insurance Scheme Quality and Safeguarding Framework sufficiently addressed the problem. However, although the framework was indeed laudable, it applied only to a very small percentage of persons with disabilities and would afford no protection to the vast majority of persons with disabilities who experienced violence.

33. **Mr. Price** (People with Disability Australia) said that, under the compulsory income management scheme in operation since 2007, between 50 and 70 per cent of social security payments were "quarantined" to what was essentially a debit card that could not be used to purchase certain products and services. Although the results of an evaluation of the scheme were not yet available, the Government had recently announced its intention to expand it to many other parts of the country. With regard to financial management of non-compliance, the Government had established a debt recovery programme that had resulted in the attribution of false debts to a number of people. Individuals affected had had those debts cancelled once the problem had been identified, but the process for questioning such debts was complicated. Despite its flaws, the programme had recently been extended.

Netherlands

34. **Ms. Jägers** (Netherlands Institute for Human Rights) said that, although the Government contended that obligations arising from the Covenant had been adequately incorporated into national legislation, in practice economic, social and cultural rights were not given sufficient status in the domestic legal order. Major reforms of social services such as the Social Support Act of 2015 had been drawn up with no reference to the right to health or the obligation to progressively realize the rights covered by the Covenant. The

national courts were extremely reluctant to apply the Covenant's provisions directly and were not encouraged by the Government to do so. The Netherlands Institute for Human Rights commended the Government for issuing guidance for State officials on economic, social and cultural rights and for taking the first steps towards ratification of the Optional Protocol. However, much more needed to be done to ensure that draft legislation was examined in the light of the rights laid down in the Covenant and to enable members of the legal profession, including the judiciary, to apply those rights in practice.

35. The position of ethnic minorities, women and people with disabilities in the labour market was another issue of concern. Although minorities' education levels had risen over the previous 15 years and were now almost on a par with those of the majority of the population, unemployment and a lack of equal opportunities remained problems for such groups. While the Government had adopted an action plan to combat pregnancy discrimination, the plan established no concrete targets and did not set out practical measures to increase reporting of incidents and to prevent such discrimination. The Netherlands had not complied with the Committee's recommendation on the protection of domestic workers and had not ratified the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). Laws aimed at facilitating labour market participation by people with disabilities had been adopted in 2015 and had initially had a positive effect. By 2016, however, some unintended consequences of their provisions had begun to undermine their effectiveness. The Government should design remedies to counter such negative effects.

36. The Institute's annual report for 2016 had focused on poverty, social exclusion and human rights, with particular attention to the right to an adequate standard of living. On the Caribbean islands of Bonaire, Saba and Sint Eustatius, in particular, measures were needed to ensure an adequate standard of living, especially among disadvantaged and marginalized groups. The report had called on the Government to adopt a comprehensive plan to combat poverty and social exclusion using a rights-based approach. It might be useful for the Committee to ask the delegation how the Government intended to respond to that recommendation.

37. Lastly, the Netherlands had not, as urged by the Committee in its previous concluding observations (E/C.12/NLD/CO/4-5), met its core obligations under the Covenant and ensured the minimum essential level of protection in relation to the rights to housing, health and education for undocumented migrants.

38. **Mr. De Schutter**, noting that the Netherlands had apparently also rejected the conclusions of the European Committee of Social Rights calling for increased support for undocumented migrants, including asylum seekers, asked how the provision of minimum support for such persons was currently viewed in the Netherlands. He would appreciate additional information about access to the labour market for ethnic minorities and about how the use of statistics to monitor their workforce participation was managed.

39. **Ms. Shin** asked what recommendations the Institute would make in concrete terms to address the fact that the legal order in the Netherlands did not take sufficient account of economic, social and cultural rights. Was it necessary to amend the Constitution or would it suffice to recommend that the parliamentary drafting process should take into account such rights? She would be interested in hearing the Institute's views on gender stereotyping and gender roles in the Netherlands and on the reasons for the lack of reporting of pregnancy discrimination. In addition, she wondered what could be done to fix the structural flaws in the system intended to encourage the hiring of people with disabilities.

40. **Ms. Liebenberg** asked whether there was any particular reason for the delay in ratifying the Optional Protocol. She had read that in Sint Maarten the termination of pregnancy had been subjected to stringent restrictions. Was the Institute aware of any progress in addressing the problem of unwanted pregnancy there? Many Government services had reportedly been devolved to local community administrations. What were the advantages and disadvantages of that devolution?

41. **Ms. Jägers** said that statistics from 2015 indicated that ethnic minorities were three times more likely than non-minority members of the population to face problems in the labour market. There was no general agreement on the question of what benefits should be

provided to undocumented migrants. As a result, their treatment differed from one municipality to another. In some cases the provision of assistance had been made conditional on their agreeing to return to their home countries. The imposition of such conditions had the effect of leaving undocumented migrants unprotected. It was important for the Government to lead by example in placing emphasis on the rights covered by the Covenant in order to motivate the judiciary in turn to actively support those rights. Much needed to be done to raise awareness and increase the importance accorded to the rights covered by the Covenant.

42. In a recent survey, more than half of pregnant women and young mothers had reported that they had suffered from pregnancy discrimination. The reluctance to report such discrimination was to some extent linked to the high stakes involved, which made women loath to denounce discriminatory practices by their employers; it was also the result of a lack of knowledge about pregnant workers' rights. The Government had recently adopted a national action plan on pregnancy discrimination, but the plan was hampered by a lack of specific measures and concrete targets. The Netherlands lagged behind other countries in its activities to address gender stereotypes and biases. The fact that a relatively high number of women were in part-time employment and that the number in positions in upper management and academic life was very low indicated that more government action was required.

43. The employment situation of people with disabilities had improved somewhat. However, in addition to the structural problems in the labour law to which she had referred, workers had to meet excessively stringent conditions to register as people with disabilities. The Committee should call upon the Government to look into the unintended consequences of the implementation of the current policy. The decentralization of services from the central level to municipalities had had both positive and negative effects. Municipal authorities were closer to the recipients of assistance and better able to tailor services to meet their needs, but at the local level there was a lack of awareness of economic, social and cultural rights. While the Institute could not judge whether budget allocations for economic, social and cultural rights were adequate or appropriate in relation to the relative wealth of the Netherlands, poverty remained a serious concern and was a major impediment to the realization of rights for the persons it affected. The Institute had thus called for the Government to adopt a comprehensive national action plan with a rights-based approach to combat poverty.

44. **Mr. Zilli** (Dutch Section of the International Commission of Jurists) said that the lack of direct applicability and justiciability of economic, social and cultural rights in Dutch courts was a serious structural issue that hindered the enforcement of such rights. The Government of the Netherlands should recognize and promote the legal development of Covenant rights. Another matter of concern was the absence of formal human rights education in the Dutch school curriculum. Such education should be the basis of civic education and was particularly important in the current climate of social polarization.

45. The rights of migrants and other especially vulnerable groups continued to be violated. In direct contravention of the Committee's general comment No. 20 the Government had failed to uphold the basic subsistence rights of undocumented migrants and had persistently ignored calls for better protection of that group. In addition, recent constitutional changes had resulted in unequal protection of the rights of people living in the Caribbean Netherlands.

46. Lastly, he wished to raise some pressing concerns in relation to business practices and human rights. For example, gas extraction in the Province of Groningen had caused major housing, safety and health problems among the local population. Although formally recognized as a human rights concern, the issue had received little attention from the Government or the courts. He hoped that the Committee would press the Government on those points.

The meeting was suspended at 4.55 p.m. and resumed at 5.10 p.m.

Uruguay

47. **Mr. Salamano** (Uruguayan Institute for Legal and Social Studies), speaking via video link from Uruguay, said that, although the Committee had called for improvements in the situation of persons with mental disabilities in its previous concluding observations (E/C.12/URY/CO/3-4), users of the mental health system continued to experience marginalization and discrimination. While there had been some structural improvements, the overall system remained deficient. The applicable legislative framework, which had not changed in several decades, needed an overhaul in order to incorporate the provisions of article 12 of the Covenant and of other international human rights treaties.

48. **Mr. Dorta** (Uruguayan Institute for Legal and Social Studies), speaking via video link from Uruguay, said that a mental health bill currently under consideration was problematic in several respects. It did not incorporate a rights-based approach, for instance, nor did it provide for an independent oversight body with responsibility for safeguarding the rights of institutionalized persons. In addition, the draft legislation did not address the lack of regulation of invasive treatments such as electroshock therapy under the current mental health system or provide for a community-based model of care.

49. **Ms. Prego** (National NGO coalition), speaking via video link from Uruguay, said that she was speaking on behalf a coalition of non-governmental organizations formed to monitor the fulfilment of the Covenant obligations of Uruguay. As noted in the report submitted by the NGO coalition, the current legal framework in Uruguay was insufficient to ensure the enforcement of economic, social and cultural rights. Women and girls experienced discrimination in the spheres of employment, education and health, and such discrimination was exacerbated by factors such as ethnicity and disability. Steps should be taken to collect disaggregated data on groups that were vulnerable to discrimination so that appropriate public policies could be developed to address discriminatory conditions. Additional data on gender-based violence were also needed. Parliament should pass the bill on gender-based violence proposed in 2016.

50. Migration trends were changing. The majority of recent immigrants were from other Latin American countries and there was a growing influx of African migrants. Migrant communities faced challenges in terms of, inter alia, employment, wages and housing. Studies should be conducted to determine the needs of the migrant population so that suitable response strategies could be developed.

51. Measures should be taken in the public and private sectors to ensure the access of persons with disabilities to productive employment under just conditions. In the realm of education, efforts should be made to decrease the dropout rate, particularly among certain groups such as migrant communities, and to provide training on sexual diversity to teaching staff.

52. **Mr. Fumeiro** (Committee on the Rights of the Child — Uruguay), speaking via video link from Uruguay, said that despite some improvements in the previous decade, children and adolescents still faced significant obstacles. Approximately one third of children experienced deprivation with regard to health, education or living standards; the situation was even worse among children from ethnic and racial minority groups. Access to education and school attendance varied widely depending on socioeconomic background; the percentage of children from the top income quintile who completed their secondary studies was twice that of children from the bottom quintile. According to the United Nations Children's Fund (UNICEF), Uruguay had one of the highest rates of child institutionalization in the region.

53. **Mr. Mancisidor de la Fuente** said that, according to the State party's replies to the list of issues (E/C.12/URY/Q/5/Add.1), the rights enshrined in the Covenant and other human rights treaties to which Uruguay was a party could be invoked before domestic courts. He would like to know whether that occurred in practice. If so, he wondered what additional benefit there would be to incorporating the provisions of the Covenant and other international human rights treaties into domestic legislation. With regard to migration, it would be useful to know whether there was any public policy relating to the promotion of the economic, social and cultural rights of Uruguayan emigrants. He would also welcome

clarification as to whether existing statistics on gender-based violence were insufficient or not reliable.

54. On the subject of education, he wondered whether the main education-related problem was school dropout. Were there other matters of particular concern? For example, had fluctuations in the balance between public and private education had an impact on enjoyment of the right to education?

55. **Mr. Zerbini Ribeiro Leão** said that it would be helpful to know whether there was a specific public policy that facilitated access to employment for persons with disabilities. He would also like to know whether inclusive public policies on migrants, particularly refugees, had been developed to address problems such as wage gaps.

56. **Mr. De Schutter** said that details on any deficiencies in the gender violence bill would be useful.

57. **The Chair** asked whether the national NGO coalition had been formed exclusively for the purposes of presenting the alternative report and, if so, whether it would cease to exist after the Committee had issued its concluding observations. In her view, it would be important for the coalition to monitor the action taken on the concluding observations.

58. **Mr. Salamano** (Uruguayan Institute for Legal and Social Studies), speaking via video link from Uruguay, said that there were no specific employment or housing programmes for persons with mental health problems, nor were there mechanisms to ensure their schooling. Furthermore, the mental health bill under study did not provide for any such programmes or mechanisms.

59. **Mr. Dorta** (Uruguayan Institute for Legal and Social Studies), speaking via video link from Uruguay, said that it was important to emphasize the need for an independent oversight body to safeguard the human rights of persons with mental health problems.

60. **Mr. Fumeiro** (Committee on the Rights of the Child — Uruguay), speaking via video link from Uruguay, said that, among some segments of the population, particularly poor nouseholds headed by adolescent mothers, there was a lack of understanding of the requirement that children must attend school and complete basic education. The policies introduced by the Government to address that problem had not been successful thus far. Similarly, there had not been an adequate response to the problems faced by children and adolescents with disabilities when it came to access to inclusive education. Private education represented only a small proportion of the overall education system.

61. **Mr. Coitiño** (National NGO coalition), speaking via video link from Uruguay, said that the educational system suffered from a number of problems. It lacked standardized procedures for addressing issues such as gender-based violence, homophobia and racism. There had been an increase in private school enrolment, which was creating a widening gap between private and public school students. That gap was defined largely along ethno-racial lines; Afro-descendant youth, for example, were far less likely to attend private schools, which were seen by potential employers as more prestigious. Consequently, the private-public gap in education later contributed to the wage gap linked to ethnicity and race.

62. **Ms. Prego** (National NGO coalition), speaking via video link from Uruguay, said that a survey on violence against women had been conducted in 2015. However, because it had only covered girls and women over the age of 15 years and had only looked at certain forms of violence, the data it had produced were deemed incomplete. Data on other types of violence and abuse, such as trafficking for purposes of sexual exploitation, were needed, as were data on forced pregnancy among girls aged between 10 and 14 years. The bill on gender-based violence was comprehensive and well designed. However, certain aspects of the law were being questioned by some in parliament, which was complicating the enactment process.

63. **Ms. España** (National NGO coalition) said that the current legal context in Uruguay was not favourable for the enforceability of economic, social and cultural rights. Among other impediments, the judicial branch did not provide adequate mechanisms for collective action. Work had been done on a framework migration policy, which unfortunately focused on the return of migrants. What was needed was a policy that addressed the specific

features of migration in the region and the living conditions and economic, social and cultural rights of migrants.

64. **Mr. Becerra** (National NGO coalition), speaking via video link from Uruguay, said that Uruguay was the only country in South America that did not allow expatriates to vote. Furthermore, expatriate Uruguayans who returned to the country tended to leave again because they were unable to find employment on account of non-recognition of their degrees and qualifications. Most immigrants were from Argentina and Brazil and had a high level of education; they thus generally had little problem finding work. The immigrants who did have problems were those who required a visa to enter the country, namely, Cuban, Dominican and Haitian nationals and persons from various African countries. Many arrived without a visa, making employment difficult. In addition, delays in the issuance of national identification cards, a requirement for employment, further complicated access to the job market for persons from those communities.

65. **Ms. Larrosa** (Amnesty International — Uruguay), speaking via video link from Uruguay, said that the NGO coalition would indeed continue to monitor the enforcement of economic, social and cultural rights after the Committee issued its concluding observations.

The meeting rose at 6 p.m.